

**REMARKS**

**I. Status of the claims**

No claim amendment has been made in this response. Claims 9-19 are pending for reconsideration.

**II. Response to the anticipation rejection of claims 9-11 and 13-19**

The Examiner has rejected claims 9-11 and 13-19 under 35 USC § 102(b) as being anticipated by *Goins* (U.S. Pat. No. 3,089,194). Applicants respectfully traverse the Examiner's anticipation rejection for the reason that follows.

MPEP § 2131 provides: "*A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.*" *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). According to MPEP § 2131.02, "*The identical invention must be shown in as complete detail as is contained in the ... claim.*" *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claim 9 is the only independent claim in the pending application. Claim 1 requires, *inter alia*, the following three essential elements:

- (a) preparing the polymer powder,
- (b) the polymer powder having a multimodal molar mass distribution,
- (c) adding 0.001 to 20% of solvent or suspension medium to the powder prior to extruding the powder.

Applicants respectfully note that *Goins* does not teach any of these elements and thus cannot anticipate claim 9. First, *Goins* does not teach claim element (a). *Goins* simply teaches how to remove solvent from the polymers

made by solution polymerization. According to *Goins*, a polymer solution is flashed to remove all or most of the solvent to produce "discrete wet solid particles." See col. 2, lines 63-65. The discrete wet solid particles are then extruded. By contrast, claim 1 requires preparing the polymer powder. Second, claim 1 requires that the polymer powder has multimodal molar mass distribution. See above element (b). This element is closely associated with element (c), i.e., adding a solvent to the polymer powder prior to extrusion. As disclosed in the specification, the process of the invention is particularly useful when the polyethylene has a multimodal molar mass distribution because additional swelling effects occur, which leads favorable homogenization. See page 3, lines 1-7 of the application. *Goins* fails to teach any of these three claim elements of claim 9 and it thus cannot anticipate claim 9 or its dependent claims 10-11 and 13-19.

### **III. Response to the obviousness rejection of claim 12**

The Examiner has rejected claim 12 under 35 U.S.C. § 103(a) as being obvious over *Goins* in view of *Bilhorn* (EP 0393 379 B1). Applicants respectfully traverse the Examiner's rejection for the reason that follows.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Note that claim 12 depends from claim 1 and it thus incorporates all of the above-discussed elements of claim 1. Under the all-elements rule, to reject claim 12, the Examiner must find all of the three claim elements from the secondary reference, *Bilhorn*, to remedy the deficiency of the primary reference, *Goins*. *Bilhorn* relates to a method and apparatus for forming electrode components comprising a fibrillated polymer binder which holds the electrode active material. See Col. 1, lines 1-6. Like *Goins*, *Bilhorn* teaches neither preparing a polymer powder having a multimodal molar mass distribution nor adding a solvent to the powder during the extrusion. Therefore, the combination of *Goins* and *Bilhorn* cannot make claim 12 obvious.

Applicants respectfully request that the Examiner withdraw the rejections and allow remaining claims 9-19. Applicants invite the Examiner to telephone their attorney, Shao-Hua Guo, at (610) 359-2455 if a discussion of the application might be helpful.

Respectfully submitted,  
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